IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.271 OF 2004

M/s.I.C.I.C.I. Bank Ltd. .. Applicant

Versus

State of Maharashtra & Ors. .. Respondents

Ms.Nipa K. Pandya i/b. Mahesh Menon & Co. for applicant

CORAM : S.C.DHARMADHIKARI, J.

DATE : 8th December 2005.

P.C.

. I.C.I.C.I. bank preferred Misc.Application before the designated Judge

hearing matters under Maharashtra Protection of Investors and Depositors Act, 1999 praying that a vehicle seized pursuant to the orders in that behalf under this Act is in fact purchased by one Raghuram Jagannath Shetty, after a loan was advanced for that purpose by the bank. The said vehicle constitutes its security and the loan agreement clearly stipulates that in the event the hypothecated vehicle is seized or attached, the bank would be able to seek its custody and not the said Shetty. The application was rejected and orders passed in that behalf are annexed at pages 46 to 49 of paperbook.

2. Now that the enactment itself is struck down as unconstitutional, ultra vires and of no legal effect and further the appeal challenging the order passed by this Court in that behalf being pending in the Supreme Court and interim orders passed therein do not prescribe either making of an application of the present nature or

grant of the same, it would be open for applicant to seek the same reliefs as are sought by them vide their misc.application referred to above.

3. In the light of changed circumstances, the trial court to reconsider the request of the applicant by reviving this application and upon hearing the Advocates appearing for it as well as prosecution and the said Shetty, pass appropriate orders in accordance with law uninfluenced by the earlier orders and the observations therein. Petition disposed of.

(S.C.DHARMADHIKARI, J)